

Remarks/Arguments

New Claims 21-22 and 24-25 are pending. Claim 23 has been canceled.

In the Office action mailed 01.17.2006, the Examiner objected to the drawings under 37 CFR 1.83(a) for not disclosing every feature of the invention specified in the claims, specifically a the longitudinal axes referred to in claims 24-25, the “knob” referred to in claims 22 and 24, and the “blade” referred to in claim 23. With the amendments to the claims presently submitted and the cancellation of claim 23, these objections are no longer applicable. The claimed language referring to longitudinal axes, the knob, and the blade has been removed.

Claims 22-25 were rejected under 35 USC § 112 . The Examiner rejected claims 22-25 because, as the Examiner alleges, the Specification fails to provide original basis for a “knob” as claimed in claim 23; for the axis of the handle not being parallel to the axis of the driven shaft; and for the processing tool being a blade. The Examiner asserts that these elements constitute new subject matter.

The word “knob” has been eliminated from the pending claims. For the record, the use of the word “knob” by the Applicant was meant to describe the shape of the originally disclosed and illustrated stabilizing handle 30. The word was being used in a generic sense.

All reference in the claims to the inherent longitudinal axes for the handle and the driven shaft have been eliminated.

The word “blade” has been eliminated from the claims. For the record, the use of the word “blade” by the Applicant was meant to be descriptive of the processing tool (60) within the common usage definition for the word “blade”.

Thus, the rejections of claims 22-25 under 35 USC § 112 are now moot.

The Examiner rejected claim 21 under 35 USC § 102 as being anticipated by US2003/0106175 (LAM). The Examiner states that the '175 publication discloses the presently claimed elements of claim 21 including a "a driven shaft 24 and o-ring bearing seals 23 and 25 providing a hermetical seal in the interior section of 24 of the blending tool 19,22, 18." The examiner also states that it is "old and well known in the art that bristles may cause an effect and operation of blending."

The Applicant disagrees with these grounds of rejection for claim 21 for several reasons, including:

1) The '175 publication fails to disclose or suggest anything that can be characterized as a "shaft bearing and sealing assembly... hermetically sealing said hollow interior section..." The o-rings referred to by the Examiner do not provide a "bearing" of any kind. The o-rings 23 and 25 "prevent the ingress of liquid downwardly along the shaft toward the gearbox and motor in use" ('175 at paragraph 0030). Instead, the "bearing" function in the '175 publication is provided by bushings 22 and 24 ("The drive shaft 19 is mounted in bushings 22 and 24. These bushings maintain the drive shaft 19 within the neck N." '175 at paragraph 0030). The o-rings 23 and 25 prevent liquid from getting past to the gearbox (15) and to the motor (6), but they do not, as required by the present claims, hermetically seal the interior section of the driven shaft housing, and certainly not the interior section where the driven shaft resides. The driven shaft (19) of the '175 publication is not hermetically sealed from the environment. The Examiner incorrectly characterizes element (24) of the '175 publication as the location of a "driven shaft" and incorrectly characterizes the same element (24) as "the interior section of the blending tool" and says that it is hermetically sealed. Element (24) cannot be both elements and, in this instance, is neither. Element (24) is a "bushing" ('175 publication at paragraph 0030). "These

bushings maintain the drive shaft 19 within the neck N.” ‘175 at paragraph 0030) means that the drive shaft (19), according to the ‘175 publication (note FIG. 1), is not a driven shaft that is mounted in a hollow interior section that is hermetically sealed on both ends as required by claim 21. In fact, the drive shaft (19) of the ‘175 publication does not reside in a hermetically sealed space.

2) Even if Examiner were correctly characterizing the element (24) of the ‘175 publication as a bearing and sealing assembly within the meaning of claim 21, the ‘175 publication fails to disclose or suggest both a “first shaft bearing and sealing assembly...at a first end... hermetically sealing said hollow interior section...” and a “second shaft bearing and sealing assembly...at a second end... hermetically sealing said hollow interior section...” within the meaning of claim 21. At best, hypothetically agreeing with the Examiner’s characterization of the element (24), the ‘175 publication shows one bearing and sealing assembly which does not sufficiently close off two ends of a hollow interior section to hermitically seal it along with a driven shaft mounted therein.

3) The Application disagrees with the Examiner’s positions that the toothbrush bristles shown in the ‘175 publication, which is directed solely to a toothbrush, can be characterized as a “blending tool” within the meaning of claim 21, and that the toothbrush itself be characterized as a “blender” within the meaning of claim 21. The ‘175 publication is directed only to a toothbrush. The bristles scrub or clean tooth surfaces, but do not “blend” anything within any conventional meaning of the word “blend” and certainly do not “blend” within the meaning of the present patent application and its claims. The present application is directed to a food blender. This type of food blender, and virtually any known food blender, could not effectively blend or mix food product if equipped with bristles. Bristles are totally inadequate for food blending because of their softness and they would be difficult to clean in comparison to blending tools of the type used in food blender appliances. In any event, the Applicant has amended claim 21 to

explicitly recite that the invention claimed is a “food blender” and that the blending tool is a “food blending tool” in order to more clearly establish this point.

Thus, the ‘175 publication does not disclose or suggest, alone or in combination with any prior art, the elements of claim 21.

For at least the reasons stated above, it is believed that claim 21 is allowable over the ‘175 publication and the prior art of record.

The Examiner rejected claims 22 and 24-25 under 35 USC § 103 (a) as being obvious over the ‘175 publication (LAM) and U.S. Patent 6,446,294 (Specht).

Claims 24-25 have been canceled. With respect to claim 22, the rejection is improper for several reasons:

1) The base reference, the ‘175 publication, insufficiently meets the limitations of the base claim 21 as discussed above and, furthermore, neither the ‘175 publication nor the ‘294 patent disclose or suggest a “stabilizing handle” on the “motor housing at a location remote from said elongated handle, said stabilizing handle being adapted to be grasped by a user’s first hand while said elongated handle is grasped by a user’s second hand.” In claim 22, the term “knob” was replaced with “stabilizing handle” in the present amendment. The Examiner states that the ‘294 patent discloses a “knob 28 that extends generally perpendicular to the axis of the driven shaft.” But element 28 in the ‘294 patent is an “induction charging coil 28” (‘294 at col. 3, l. 60). It is an internal, electrical component, it is not remotely located from the elongated handle (4), and it cannot be grasped by a user’s second hand or any hand for that matter. It is simply not even close to what is claimed – whether or not claim 22 calls it a “knob”, a “stabilizing handle”, or any other name. There is no suggestion or disclosure of any kind whatsoever in the ‘175 publication or in the ‘294, taken alone or in combination, of stabilizing handle remotely located from an elongated handle so

that a user can grasp the elongated handle with one hand while grasping the stabilizing handle with the other hand.

2) There is no motivation, teaching or suggestion to combine the '175 publication with the '294 publication to arrive at a "knob" or a "stabilizing handle" as claimed in claim 22. Both references disclose a single, elongated handle designed and sized for one-handed grasping with no protruding members of any kind that could serve to be grasped by a second hand, especially a protruding member that is remote from the single, elongated handle.

For at least the reasons stated above claim 22 is allowable over the art of record.

The Examiner rejected claims 21-25 under 35 USC § 102 and, alternatively, under 35 USC § 103 (a) as being obvious over U.S. Patent 6,186,056 (Bruno) in view of U.S. Patent 6,193,404 (Calange). Since claims 23-25 have been canceled, only claims 21 and 22 are addressed.

The Examiner states that the '056 patent discloses, among other things, "a driven shaft 9" and "seals 21 and 20 at each end of the driven shaft". This is incorrect because clearly, as shown and disclosed in the '056 patent, the seals 21 and 22 are located at one end of the driven shaft, and not at each end of the driven shaft. Present claim 21 requires two seal and bearing assemblies for the purpose of hermitically sealing a chamber in which a driven shaft is mounted, as claimed. The '056 patent's simple bearing and seal assembly (13) is one bearing assembly and it seals 20 and 21 seal only the bearing itself. The single bearing assembly of the '056 patent does not and cannot hermitically seal two ends of the space in which the driven shaft is mounted, as claimed in the present claim 21. And the '056 patent makes no such suggestion. In fact, the '056 patent discloses a prior art device that has a major drawback for which a solution is one of the objectives of the presently claimed invention. The presently claimed invention states as one of its objectives having hermetic seals at each end for

removal, cleaning and storage without compromising the internal components. The '056 patent, in contrast, has a construction such that if it were disassembled, the end of the tube (2) has no hermetic seal or cover of any kind at its first end (3) once it is disassembled from the machine (M). Similarly, the '404 patent discloses a design that is specifically intended for disassembly, in direct contrast to the presently claimed invention.

The Examiner states, in support of an obviousness position of the '056 patent in view of the '404 patent, that the '404 patent discloses "plural handle portions 4 which portions may be called a handle and knob that is perpendicular to the handle for grasping the electric processing tool." The handle (4) of the '404 patent is a single handle, and a second section (not labeled but to the left of the handle (4) in Fig 1) is parallel to the handle (4).

The handle (4) of the '404 patent cannot in any way disclose or suggest the presently claimed subject matter of claim 22, nor the previous version of claim 22. Claim 22 recites "an elongated handle at said handle portion; and a stabilizing handle knob on said motor housing at a location remote from said elongated handle, said stabilizing handle knob being adapted to be grasped by a user's first hand while said elongated handle is grasped by a user's second hand." The stabilizing handle as now claimed is remote from the handle portion because when operating an appliance such as that disclosed in the present invention or in the '404 patent, the size and movement of the appliance requires users to grab the appliance with one hand on the handle and a second hand at a second location. In appliance like the one disclosed in '404, users grab the upper end of the shaft (2), since there is no specific secondary or stabilizing handle. The Applicant has personal knowledge of this fact and has in testing used a product like the one disclosed in the '404 patent and sold by the assignee of the '404 patent. The secondary section (unlabeled) in Fig. 1 of the '404 patent that is parallel to the handle (4) cannot be used as a stabilizing handle because it is much too close (i.e., not "remote" from) to the handle (4) and, thus, does not

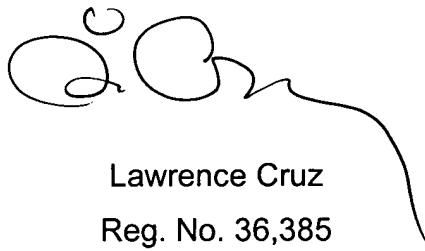
provide the physical advantage of a stabilizing handle as presently claimed. The secondary section is not a handle at all, but it is a bracket that provides structural strength to the only handle, handle (4).

For at least the reasons stated above, it is believed that claims 21 and 22 are allowable over the '056 and '404 patents, and the prior art of record.

The remaining prior art cited by the Examiner but not applied to the claims in any rejection have been studied and, in the Applicant's opinion, do not disclose or suggest the presently claimed invention.

It is believed that claims 21-22 are in condition for allowance. Favorable action is requested.

Respectfully submitted,

A handwritten signature in black ink, consisting of stylized, overlapping loops and a long, sweeping tail that extends to the right.

Lawrence Cruz
Reg. No. 36,385